

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY BANGKOK

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E.O. 11652: N/A

TAGS: MILI

SUBJ: KENNEDY AMENDMENT RE WAR RESERVE STOCKS

REF : BANGKOK 9622

1. TEXT OF KENNEDY AMENDMENT TO FY 1975 MILITARY PROCUREMENT BILL, AS APPROVED BY SENATE ON JUNE 6, READS AS FOLLOWS:

"(A) NO FUNDS AUTHORIZED FOR THE USE OF THE DEPARTMENT OF DEFENSE BY THIS OR ANY OTHER ACT IN FISCAL YEAR 1975 MAY BE USED FOR THE PURPOSE OF STOCKPILING WAR MATERIALS OR EQUIPMENT FOR USE BY ANY ASIAN COUNTRY EXCEPT TO THE EXTENT AUTHORIZED BY SECTION 701 OF THIS ACT OR BY THE FOREIGN ASSISTANCE ACT OF 1961 OR THE FOREIGN MILITARY SALES ACT.

"(B) ANY MATERIALS OR EQUIPMENT STOCKPILED BY THE DEPARTMENT OF DEFENSE ON THE DATE OF ENACTMENT OF THIS
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ACT FOR FUTURE USE BY ANY ASIAN COUNTRY MAY NOT BE

TRANSFERRED TO ANY SUCH COUNTRY EXCEPT TO THE EXTENT SUCH TRANSFER IS SPECIFICALLY AUTHORIZED BY LAW."

2. ABOVE-QUOTED PROVISION WAS INCLUDED IN BILL WHICH WAS PASSED BY SENATE ON JUNE 11 AS H.R. 14592. NO COMPARABLE PROVISION IS CONTAINED IN HOUSE-PASSED

VERSION. IT APPARENTLY IS BASED UPON MISUNDERSTANDING BETWEEN AUTHORITY TO ESTABLISH AND MAINTAIN STOCKPILE ON THE ONE HAND AND AUTHORITY TO TRANSFER DEFENSE ARTICLES FROM STOCKPILES TO FOREIGN GOVERNMENTS ON THE OTHER. EXPRESSED INTENTION OF SPONSOR IS TO PREVENT AUGMENTATION OF MAP, FMS AND MASF PROGRAMS. TO THIS EXTENT, PROVISION IS UNNECESSARY BECAUSE TRANSFERS OF MATERIEL FROM STOCKPILES TO FOREIGN COUNTRIES WOULD IN ANY EVENT REQUIRE CHARGE TO FUNDS AVAILABLE FOR MAP, FMS OR MASF PROGRAM, AS APPLICABLE, AND DOD HAS NO ADDITIONAL INDEPENDENT AUTHORITY TO TRANSFER MATERIAL TO FOREIGN COUNTRIES, WHETHER ASIAN OR NON-ASIAN.

3. IN VIEW OF FOREGOING, SUBSECTION (B), QUOTED ABOVE IS CONSIDERED NARROWER THAN EXISTING LAW. HOWEVER, SUBSECTION (A) IS OBJECTIONABLE BECAUSE IT WOULD APPEAR TO PRECLUDE USE OF DOD WAR RESERVE STOCKPILES AS SOURCE FOR PROCUREMENT OF MATERIEL FOR MAP, FMS AND MASF PROGRAMS. DOD DOES NOT RELY UPON AUTHORITY TO TRANSFER DEFENSE ARTICLES CONTAINED IN SECTION 701 OF BILL (MASF), FOREIGN ASSISTANCE ACT (MAP) OR FOREIGN MILITARY SALES ACT AS AUTHORITY TO ESTABLISH OR MAINTAIN SUCH STOCKPILES. ENACTMENT OF SUBSECTION (A) WOULD APPEAR TO REQUIRE MAP ORDERS, FMS PURCHASES OR MASF REQUIREMENTS TO BE FILLED BY PROCUREMENT EITHER FROM DOD STOCKS OTHER THAN WAR RESERVE STOCKPILES OR FROM NEW PROCUREMENT FROM MANUFACTURERS.

4. DOD HAS EXPRESSED ABOVE OBJECTIONS TO HOUSE-SENATE CONFERENCE NOW CONSIDERING DIFFERENCES BETWEEN HOUSE-PASSED AND SENATE-PASSED VERSIONS OF MILITARY PROCUREMENT BILL. IT IS POSSIBLE THAT PROVISION WILL BE DELETED OR MODIFIED IN CONFERENCE. IF ENACTED WITHOUT LIMITED OFFICIAL USE

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MODIFICATION, PRACTICAL EFFECT OF KENNEDY AMENDMENT COULD BE POSSIBLE DELAYS IN DELIVERIES, BUT ONLY IN UNUSUAL CIRCUMSTANCES. LEVEL OF MAP AND FMS CREDIT PROGRAMS FOR THAILAND ARE UNAFFECTED. THESE WILL BE DETERMINED IN LIGHT OF CONGRESSIONAL ACTION ON PENDING FOREIGN ASSISTANCE ACT OF 1974 AND FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATION BILL FOR FY 1975. SISCO

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